

REMARKS/ARGUMENTS

Claims 1-9, 12-14, and 21-28 are pending in this application. Claims 1-9 and 12-14 are rejected in the Office action of June 17, 2004. Applicants respectfully request reconsideration of these claims. Claims 21-28 are new. Support for these can be found in the specification on pages 5-6 and in the claims originally presented.

Claims 1-9 and 12-14 are rejected under 35 U.S.C. § 103(a) as unpatentable over Stoltz in view of Fennema and Patel. Applicants respectfully submit that claims 1-9 and 12-14 are non-obvious over the cited art because the references, when taken together, do not teach or suggest the claimed invention. Furthermore, there is no reasonable expectation of success of making a flavor enhancing edible oil comprising silica and a water-soluble particulate flavor enhancer wherein the water-soluble particulate flavor enhancer is dispersed throughout the edible liquid.

The cited references do not teach or suggest a flavor-enhancing oil comprising an edible liquid oil, 1.5 to 2.2% silicon dioxide and at least one **water-soluble particulate flavor enhancer** dispersed throughout the edible oil. The Examiner has suggested that "Stoltz clearly teaches the use of a flavor enhancer formulation comprising oil and a flavor dispersed through the oil.... Stoltz does not exclude water-soluble flavors" (Office action of June 17, 2004, page 3, fifth paragraph.) However, nowhere in Stoltz is there a teaching or suggestion that water-soluble flavor enhancers can be used in accordance with his invention. Every flavorant that Stoltz discusses throughout the patent is an oil-based flavorant that is added to oil. Not a single water-soluble flavor enhancer is taught or suggested anywhere in Stoltz. Stoltz states in column 4, lines 57-59, that "various blending agents, food concentrates or flavorings that can be employed in the present invention are illustrated in the following examples." The examples go on to show the use of oil-based flavorants, as well as other oil-soluble additives, dissolved in oil. See, Stoltz, column 5, lines 10-11 showing oil-based colorants, column 7, table IV showing the addition lecithin, and column 10, lines 14-17, 30-32, 61-62 as well as claims 1.C.c., and 9-13, which all discuss the addition of **oil-based flavorants** to oils. The one thing that is missing, however, is any mention whatsoever of the addition of any water-soluble particulate to the invention of Stoltz. There simply is no teaching or suggestion in Stoltz that a water-soluble

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• particulate flavor enhancer could be used. There is no motivation in Stoltz to use a water-soluble particulate flavor enhancer. Furthermore, there is no reasonable expectation of success in using a water-soluble particulate flavor enhancer in the invention described in Stoltz. There is no reasonable expectation of success when substituting water-soluble, *i.e.*, oil-insoluble, particulates, for oil-based flavorants. This substitution is not taught or suggested, and furthermore, would not result in Applicants' claimed invention.

The Examiner also suggests that Stoltz teaches flavor in general (Office action of June 17, 2004, page 3, fifth paragraph.) Stoltz does generally say the invention described therein may comprise a flavoring, however, it nowhere teaches or suggests the **flavor enhancers** claimed by Applicants. As Applicants define in their specification, a **flavor enhancer**, as opposed to a *flavorants* or *flavoring*, "refers to a substance which has little flavor itself, but when added to food, has the property of enhancing or intensifying the flavor of the food. Flavor enhancers include...flavor precursors, flavor potentiators, reaction flavors, and agents that suppress or mask undesirable flavors." Applicants are not claiming flavored oil, which is disclosed in Stoltz. Applicants, rather, are claiming a **flavor enhancing oil**, comprising an edible oil, silicon dioxide, and a water-soluble particulate flavor enhancer. This is not taught or suggested by Stoltz or any combination of Stoltz, Fennema, and Patel. Fennema does teach the existence of flavor enhancers, but does not teach or suggest a delivery method. Patel teaches the use of silicon dioxide in flavorant formulations for chewing gums, but does not teach an oil mixture that is capable of keeping water-soluble particulates suspended therein, as Applicants claim.

Moreover, there is no teaching or suggestion of a flavor-enhancing oil comprising at least one edible oil, 1.5 to 2.2% by weight of a matrix-forming agent comprising silicon dioxide, and a flavor-enhancing amount of at least one water soluble particulate flavor enhancer, wherein the water-soluble particulate flavor enhancer is dispersed throughout the edible oil. There is no reasonable expectation that the combination of oils flavored with oil-based flavorants of Stoltz, the flavor enhancers listed, but without any guidance on use in Fennema, and the teaching of making a thickened gum-based flavorant for the purpose of spray-drying in Patel, would result in the flavor-enhancing oils claimed by Applicants.

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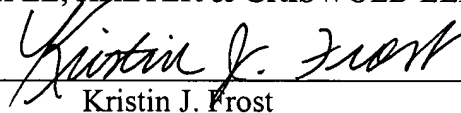
• Furthermore, no combination of Stoltz, Patel and Fennema teach or suggest a method for preparing a flavor enhancing oil, comprising the steps of adding from 1.5% to 2.2% of a matrix-forming material comprising silicon dioxide to an edible oil base; mixing the oil and silica of step a until the silicon dioxide is completely dispersed in the oil; homogenizing the completely dispersed silicon dioxide and oil mixture of step b; cooling the homogenized silicon dioxide and oil mixture to a temperature in the range from 70°F to 80°F; and mixing a flavor enhancing amount of one or more particulate, water soluble flavor enhancers into the cooled, homogenized silicon dioxide and oil mixture; wherein the particulate water-soluble flavor enhancers remain suspended in the oil.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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